

UNITED STATES DISTRICT COURT  
DISTRICT OF MAINE

_____	)	
UNITED STATES OF AMERICA,	)	
	)	
Plaintiff,	)	
	)	
v.	)	CIVIL NO: 07-7-B-W
	)	
COUNTRY ACRES FARM, INC.	)	
	)	
Defendant.	)	
_____	)	

**CONSENT ORDER**

Plaintiff, the United States of America, acting on behalf of the United States Environmental Protection Agency (“EPA”) commenced this action on January 19, 2007, pursuant to Sections 309(b) and (d) of the Clean Water Act (“CWA” or the “Act”), 33 U.S.C. §§ 1319(b) and (d), seeking injunctive relief and civil penalties.

On March 16, 2007, the United States moved for a Temporary Restraining Order (“Motion”), which was heard by the Court on March 21, 2007. At the conclusion of the hearing and negotiations conducted between the Parties that day, the Court entered an order on consent on the record, which was subsequently further memorialized in a written Consent Order, dated March 27, 2007 (“March 2007 Consent Orders”). Shortly after the hearing on the United States’ Motion, Defendant answered the Complaint and filed a Third-Party action against Seth Bradstreet, individually and in his official capacity as Commissioner of the State of Maine Department of Agriculture, and the State of Maine Department of Agriculture, alleging, inter alia, disparate enforcement pursuant to 42 U.S.C. § 1983.

Since March 27, 2007 the Court held regular telephone status conferences at which the Parties reported on Defendant’s compliance with the March 2007 Consent Orders, the status of

conditions at the two lagoons and other areas of concern at the farm, and the status of efforts to secure funding and other support for a remediation plan under development.

On July 20, 2007, following a hearing on the United States' Motion for an Order to Show Cause, the Court found Defendant and its president, Carl McCue, to be in contempt and ordered that the Court may extend the time for the Defendant and Mr. McCue to purge themselves of contempt to the time when the remediation is to be completed according to the approved schedule. On July 24, 2007, Defendant executed several agreements including, but not limited to, a Remediation Agreement in form attached as Exhibit A (the "Remediation Agreement").

ACCORDINGLY, IT IS HEREBY ORDERED THAT:

1. Within two (2) calendar days of the execution of this Order by the Parties (if it has not already done so), Defendant shall authorize, instruct, or otherwise cause its independent contractor, Farmers Realty, LLC, ("Farmers Realty") to commence the work under the Remediation Plan described in Paragraphs 6-10 of Exhibit A, attached hereto (the "Remediation Plan"), in order to ensure that the Remediation Plan activities are completed in accordance with the timetable provided in the Remediation Plan. Upon completion of the Remediation Plan, Defendant shall cause its contractor, Farmers Realty, to submit to EPA a Completion Report, documenting the performance of the remediation and certifying that all conditions of the Remediation Plan have been met according to deadlines set forth in the Remediation Plan. Within twenty (20) days, EPA shall either approve the Completion Report in writing, indicating that the Plan has been completed satisfactorily, or provide a written notice of deficiency. If EPA provides a notice of deficiency, Farmers Realty shall have twenty (20) days from receipt of EPA's

notice to cure the deficiency. If Farmers Realty does not satisfactorily cure the deficiency, Defendant shall remain liable for completion of the Remediation Plan.

2. If the Parties cannot resolve any issues relating to an alleged deficiency, this Court retains jurisdiction to determine the nature and extent of compliance with respect to the Remediation Agreement and the Remediation Plan.
3. Upon EPA's approval of the Completion Report, Defendant and its president, Carl McCue, shall be purged of their contempt of the March 2007 Consent Orders.
4. Nothing in this Consent Order shall be construed to resolve any claims alleged in the Complaint, or otherwise affect Defendant's defenses or liability, with respect to violations of applicable federal or State law or regulations or the Administrative Compliance Order. The United States expressly reserves the right to seek additional injunctive relief and/or penalties pursuant to Sections 309(b) and (d) of the Clean Water Act, 33 U.S.C. §§ 1319(b) and (d) for the violations alleged in the Complaint. This Consent Order does not resolve any claims, if any, against Defendant for criminal liability.
5. This Consent Order shall not relieve Defendant and/or its contractors of its obligation to comply with all applicable provisions of Federal, State, local laws, regulations, permits, or with any order of the Court, including the Clean Water Act, during the performance of the Remediation Plan or otherwise.
6. This Consent Order does not affect the rights of the United States as against any person not a party to this Consent Order.

7. The undersigned signatories represent that they are fully authorized to enter into the terms and conditions of this Consent Order and to execute and legally bind the party he or she represents to this document.
8. The Parties agree and acknowledge that final approval by the United States and entry of this Consent Order is subject to the requirements of 28 C.F.R. § 50.7, which provides for notice and an opportunity for public comment. Defendant consents to the entry of this Consent Order without further notice. The United States' consent to the entry of this Consent Order is subject to publication of notice thereof in the Federal Register pursuant to § 50.7, and an opportunity to consider comments thereon, prior to requesting that the Court approve this Consent Order and enter it as a judgment of the Court.

SO ORDERED.

Dated: \_\_\_\_\_, 2007  
Bangor, ME

\_\_\_\_\_  
JOHN A. WOODCOCK, JR.  
UNITED STATES DISTRICT JUDGE

THE UNDERSIGNED PARTY enters into this Consent Order in the matter of United States of America v. Country Acres Farm, Inc.

FOR PLAINTIFF UNITED STATES OF AMERICA:

RONALD J. TENPAS  
Acting Assistant Attorney General  
Environment and Natural Resources Division

August 2, 2007

---

KEITH T. TASHIMA  
Trial Attorney  
Environmental Enforcement Section  
601 D Street, N.W.  
Washington, D.C. 20004

PAULA SILSBY  
UNITED STATES ATTORNEY  
DISTRICT OF MAINE

DAVID COLLINS  
Assistant United States Attorney  
100 Middle Street Plaza  
East Tower Sixth Floor  
Portland, Maine 04101

OF COUNSEL:

MARGERY ADAMS  
Senior Enforcement Counsel  
U.S. Environmental Protection Agency, Region 1  
One Congress Street – SEL  
Boston, Massachusetts 02114

THE UNDERSIGNED PARTY enters into this Consent Order in the matter of United States of America v. Country Acres Farm, Inc.

FOR DEFENDANT COUNTRY ACRES FARM, INC.:

August 2, 2007

---

CARL D. MCCUE  
President, Country Acres Farm  
P.O. Box 758  
Hampden, ME 04444

August 2, 2007

---

DAVID J. VAN DYKE, ESQ.  
Hornblower Lynch Rabasco & Van Dyke, P.A.  
261 Ash Street  
Lewiston, ME 04240  
(207) 786-6641  
[dvandyke@zwi.net](mailto:dvandyke@zwi.net)